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12 **UNITED STATES BANKRUPTCY COURT**

13 **DISTRICT OF ARIZONA**

14 Johnathan B. Woods,
15 Debtor.

16 Case No. 2:12-bk-13564-PS
17 Chapter 13

18 Bank of America, N.A., as successor by
19 merger to BAC Home Loans Servicing, LP
20 FKA Countrywide Home Loans Servicing LP,
21 by its attorney-in-fact Carrington Mortgage
22 Services, LLC,

23 **MOTION FOR RELIEF FROM THE
AUTOMATIC STAY**

24 Re: Real Property Located at
25 3930 East Cody Avenue
26 Gilbert, AZ 85234

27 Movant,

28 v.
29 Johnathan B. Woods, Debtor; and Russell
30 Brown, Trustee,
31
32 Respondents.

33 Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP
34 FKA Countrywide Home Loans Servicing LP, by its attorney-in-fact Carrington Mortgage
35 Services, LLC, (“Movant”), moves this Court for an Order terminating the Automatic Stay so
36 that Movant may commence eviction proceedings in the Maricopa County Superior Court

1 regarding the property commonly known as 3920 E. Cody Ave., Gilbert, AZ 85234
2 (“Property”) and known by its legal description of:
3

4 Lot 432, of Carol Rae Ranch, according to the Plat of Record in the Office of the
5 County Recorder of Maricopa County, Arizona, Recorded in Book 395 of Maps,
6 Page 24 and Affidavits of Correction Recorded as 95-345898, as 96-0353476 and
7 as 96-0740382, all of official records.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**
9

10 **I. Statement of Facts**

11 1. On June 18, 2012, Debtor commenced the current Chapter 13 Bankruptcy proceeding in
12 this Honorable Court.

13 2. On February 16, 2010, prior to the Debtor filing for bankruptcy protection, the Property
14 proceeded to non-judicial foreclosure and was placed for trustee’s sale by auction. At that time,
15 BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP bid the loan
16 amount and received title to the property by a Trustee’s Deed Upon Sale (“Trustee’s Deed”),
17 which was signed on February 17, 2010, and recorded in the Maricopa County Recorder’s
18 Office on February 22, 2010, as Document No. 20100142541. See Exhibit A. Movant is
19 listed as the owner to the Property according to the Maricopa County Assessor’s Office. See
20 Exhibit B.

21 3. BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP merged
22 with and into Bank of America, N.A. See Exhibit C.

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1 4. Bank of America, N.A. previously filed a Motion for Relief from the Automatic Stay
2 and Notice of Motion for Relief from Stay at DE#46 and 44, respectively. This Motion was
3 withdrawn at DE#71.
4

5 5. Bank of America, N.A., by it's attorney-in-fact Carrington Mortgage Services, LLC is
6 proceeding again with this Motion.
7

8 6. Upon information and belief, Jonathan B. Woods, ("Debtor") resides in the Property.
9

10 **II. Argument**

11 The trustee's sale of the property occurred prior to the Debtor's bankruptcy filing so no
12 stay was in place at that time. As a result of the trustee's sale, the Property is no longer
13 property of the Debtor or of the Estate. The Debtor continues to reside in the Property so
14 Movant as the rightful owner of the Property seeks stay relief to exercise its state court
15 remedies, which may include forcible entry and detainer proceedings so that it may obtain
16 possession.
17

18 **III. Conclusion**

19 WHEREFORE, Movant prays for judgment as follows:
20

- 21 1. For an Order granting relief from Automatic Stay, permitting Movant to exercise its
22 state court remedies including eviction proceedings;
- 23 2. For an Order waiving the 14-day stay provided by Bankruptcy Rule 4001(a)(3);
- 24 3. For an Order binding and effective despite any conversion of this Bankruptcy
25 proceeding; and,

26 //
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28 //

1 4. For such other relief as this Court deems appropriate.
2
3
4 DATED this 29th day of September, 2015.
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6
7
8
9
10
11
12 ORIGINAL filed by ECF and
13 COPIES of the foregoing were mailed
14 this 29th day of September, 2015, to:
15 Jonathan B. Woods
16 3930 E. Cody Ave
17 Gilbert, AZ 85234
18 *Debtor*
19 Russell Brown
20 Chapter 13 Trustee
21 3838 N. Central Ave Ste. 800
22 Phoenix, AZ 85012
23 U.S. Trustee
24 Office of the U.S. Trustee
25 230 N. First Avenue, Suite 204
26 Phoenix, AZ 85003-1706
27
28 /s/ Janette Belmontes

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